

UNITED STATES DISTRICT COURT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

FOR THE

2022 JUN 28 AM 9:41

DISTRICT OF VERMONT

CLERK

BY gus
DEPUTY CLERK

JENNIFER L. WALSH
Plaintiff

v.

SMUGGLERS' NOTCH
MANAGEMENT COMPANY, Ltd.
d/b/a SMUGGLERS' NOTCH RESORT,
Defendant

Docket No. 5:22-cv-127

COMPLAINT

NOW COMES Plaintiff, Jennifer L. Walsh, and hereby complains against Defendant, Smugglers' Notch Management Company, Ltd., d/b/a Smuggler's Notch Resort, as follows:

Jurisdiction

1. This action is brought pursuant to 28 U.S.C. § 1332.
2. At all times material to this Complaint, Jennifer L. Walsh (hereinafter "Plaintiff") was a resident of New York State.
3. Smugglers' Notch Management Company, Ltd., d/b/a Smuggler's Notch Resort, (hereinafter "Defendant") is a corporation with a principal place of business located in Cambridge, Vermont, that operates of a full-season destination resort.
4. The amount in controversy is in excess of \$75,000.00 exclusive of interest and costs.

Venue

5. This action arises from a fall resulting in personal injuries sustained at Defendant's resort in Cambridge, Vermont, on July 19, 2019.

Facts

6. On July 19, 2019, Plaintiff was a residential guest at the Smuggler's Notch resort.

7. On that day, Plaintiff arranged for her son to use an amusement called the "Eurobungy" located at the Notchville Park facility at the resort.

8. The Eurobungy consisted of a tall, colorful engineered structure outfitted with bungee-jumping platforms situated above an array of brightly hued trampolines, where users bounced up and down in the air while wearing harnesses connected to bungee cords secured to the structure's overarching angular frame.

9. Immediately next to the Eurobungy, the Defendant had created an observation area so that parents and other interested people could watch the jumpers and take pictures and videos as they repeatedly dropped down from their perches on the elevated structure to the trampolines on the ground, bounced off of them, and then rose back up high into the air.

19. This observation area consisted of a leveled patch of ground on a mountainside plateau surfaced by dirt and covered by woodchips or mulch that overlooked a small gorge, the edge of which was protected by a split-rail wooden guardrail.

20. When it came time for Plaintiff's son to take his turn on the Eurobungy, the Plaintiff prepared to take pictures of his jump.

21. Finding that she needed a little more room for her photo, the Plaintiff stepped backwards.

22. As the Plaintiff took this step, her foot went into a depression in the ground, destabilizing her and causing her to lose her balance and fall backwards against the guardrail.

23. However, the guardrail failed, breaking apart and allowing the Plaintiff to topple un-arrested backwards over the edge and down into the gorge.

24. Due to this fall, the Plaintiff, without limitation, suffered severe and permanent disfiguring and disabling injuries, incurred medical bills and economic losses, experienced pain, suffering and the loss of enjoyment of life, and experienced other harms and losses, which continue.

COUNT I – NEGLIGENCE

25. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-24 of her Complaint as if fully set forth and reproduced herein.

26. Defendant had a duty to provide its guests with walkways and similar areas and facilities compliant with applicable building, architectural, design and engineering codes, customs, safety and maintenance standards, as well as with regulations under both federal and state law.

27. Defendant breached this duty by failing to provide and maintain a surface at the observation area that was stable, planar, flush and capable of safely sustaining intended loads, but rather one that, due to deviations from this standard, created a concealed trip hazard under circumstances where users' attention has been intentionally directed to a remote attraction.

28. Due to these deficiencies in the design and maintenance of the surface of the observation area, Plaintiff's footing was destabilized, causing her to fall.

29. As the Plaintiff's momentum propelled her backwards towards the edge of the gorge behind her position on the observation area, she came into contact with the guardrail along its edge.

30. However, rather than maintaining its structural integrity, the guardrail collapsed, thus failing to prevent or restrain the Plaintiff from falling further backwards and into the gorge.

29. The guardrail collapsed because it had not been adequately maintained.

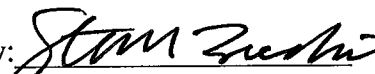
30. The Defendant was aware of the degraded condition of the guardrail prior to the Plaintiff's fall but had failed to repair it.

31. As with the walking surface, the condition of the guardrail was also a breach of the Defendant's duty to maintain sidewalks, walkways, stairs, driving areas, parking areas and similar features in a proper state of repair and free from hazardous conditions.

32. Defendant's design, configuration and maintenance of the observation area was a breach of its duty and directly and proximately caused Plaintiff's injuries, damages, harms and losses, as described above.


WHEREFORE the Plaintiff requests this Court to enter judgment for all relief necessary to make her whole, with an award of compensatory damages, past, present and future, including but not limited to medical bills and expenses, lost wages, lost employment benefits, pain and suffering, disfigurement, impairment, loss of enjoyment and other damages, together with prejudgment interest, costs and expenses, and all other such relief as this Court may deem just.

DATED at Jeffersonville, Vermont, this 27th day of JULY 2022.

By: 
Steven A. Bredice
Law Offices of Steven A. Bredice PLC
17 GW Tatro Drive
PO Box 519
Jeffersonville, Vermont 05464

JURY DEMAND

Plaintiff demands a Trial by Jury on all issues so triable.

By: 
Steven A. Bredice
Law Offices of Steven A. Bredice PLC
17 GW Tatro Drive
PO Box 519
Jeffersonville, Vermont 05464